

1991 LEGISLATIVE ANALYSIS MASSACHUSETTS

This evaluation of the current and anticipated political situation is provided with the following caveats:

1. The outcome of the November elections is projected, but not known;
2. The final state budget deficit for either fiscal 1990 or 1991 is not known;
3. The final decision of the Science Advisory Board of the Environmental Protection Agency with regard to the impact of the health effects of environmental tobacco smoke has not yet been made;
4. The impact of the federal budget situation on state revenues, including federal revenue sharing, is not yet clear.

Within this context the following report would seem to provide the state of the state as we begin the 1991 session of the legislature.

The state of Massachusetts is suffering from the reversal of the "Massachusetts Miracle", and is likely to continue the economic downturn that began in 1988. The economic conditions will severely strain the state's ability to generate the funds necessary to pay for the functions of government as approved in the fiscal 1990 budget. There have already been several budget reductions this year, but, the revenue collections are lagging far behind projections. This will come at a time when the need for the government to intervene to protect those people in jeopardy because the recession will be at its highest. The state will be required to either uniformly cut the entire budget, eliminate certain programs, accelerate certain tax collections or impose tax increases. Since the state already has one of the highest tax structures in the country, it is reasonable to assume that the legislature and the governor will have to look to consumption taxes to fund the deficit. Cigarette taxes may be in the most jeopardy because of our successful defeat (deferral?) of proposed increases during the past eight years while all other taxes increased.

The mood of the populace, as gauged by the vote on Question 3, the tax reduction initiative on the November ballot, is likely to determine the direction taken by the next Legislature. The potential exists for a progressive tax coalition to develop. However, that coalition will have to be supportive of certain "down-sizing" of the government that will be part of the next administration's overall plan. If Question 3 is passed, the likelihood that any tax will pass during the up-coming session is remote. However, if Question 3 is defeated the potential for additional taxes, especially consumption taxes is almost assured.

It is reasonable to assume that the Democrats will continue their majority in both houses of the Legislature. However, the governor's race is a legitimate toss-up. Either candidate will be less than enthusiastic about new taxes and is likely to be committed to a reduction in the size of government. However, the Republican ticket is less likely to be interested in talking to the industry than the Democratic ticket. The change in administration may not hurt the industry as much as the loss of some long-time members of the legislature. There is very little chance of a veto from either candidate for governor. However, a Silber governorship is more likely to be receptive to the industry arguments than a Republican.

Because of the recession and the possibility of new tax increases, it is also reasonable to assume that the legislature and the governor will be looking for minimal cost legislation that looks progressive. This could prove to be a problem for the tobacco industry. This will be especially true if the EPA report is particularly damaging.

The political and economic situation is extremely volatile. The industry needs to move cautiously. Its agenda needs to be very clearly developed with coordinated effort with the legislature and administration. We will be holding additional meetings after the election to finalize our strategy.

STATE TAX PLAN

MASSACHUSETTS

LEGISLATIVE ACTION: September 27, 1990

STATE/LOCALITY: Massachusetts

ISSUE: Taxes

SUMMARY: Cigarette excise tax increase.

SPONSOR: Governor or governor's chosen sponsor.
(Anti-tobacco activists are likely to introduce their own tax bills. These increases will be very high and probably earmarked.)

COMMITTEE: Joint Committee on Taxation

LEGISLATIVE STATUS: Anticipated 1991 legislation.

INDUSTRY ACTION

The Massachusetts fiscal fiasco is widely known. The on-going confusion and attempts to rectify the mess have nonetheless resulted in a proposed fiscal 1991 budget plan which does not include tobacco taxes. That can and probably should change in order to avoid a Texas-sized tax increase for fiscal 1992.

All of the bets on Massachusetts are complicated by the upcoming gubernatorial race. Dukakis is a crippled duck, Murphy is out of the race, Silber is not necessarily a friend of the industry, and the Republicans may be forced to swallow some more palatable taxes if they are elected. The fact that attention will focus on the race rather than the business of government may postpone a tax hike but lead to a large tax increase rather than the small (4-cents) increase which was proposed in 1990.

Budget cuts will continue. Tax increases continue to be an anathema but appear to be necessary if the state is going to avoid having its bonds rated lower than Kuwait's. Our program must increase the force of argument that a cigarette tax is not "just a sin tax." Alliances with the Citizens for Limited Taxation must be reinforced, but not overtly advertised. This contact could jeopardize some union support and would, therefore, require careful distance.

Generally, the Massachusetts program must:

- (1) enhance alliances with business organizations
- (2) increase organized labor contacts
- (3) utilize member company grassroots programs when appropriate

- (4) continue to build a team effort with member company lobbyists and allied member lobbyists
- (5) encompass a local media relations program to establish credible working relations with print and electronic media.
- (6) prepare for potential opportunities that would allow us to reach an accommodation at a minimal tax rate early in the process, rather than be forced to accept a significant increase later in the process.

RESOURCES NEEDED	YES/NO	DATE NEEDED
ECONOMIC ANALYSIS/FACTSHEET?	YES	1/30/91

Economic analyses must focus on cross-border sales, especially in light of the increased taxes in Rhode Island, New Hampshire and Connecticut. A region-wide analysis is most essential to an effective program addressing the argument of cross-border buying. In addition, materials on regressivity need to be tailored to the Massachusetts smokers' demographics and presented to the union and legislature by Citizens for Tax Justice.

LEGAL MEMORANDUM?	NO	
EXPERT WITNESSES?	YES	1/30/91

Our economic analysis must be prepared by an organization with an unimpeachable reputation for integrity. The organization must be prepared to fully defend its findings and methodology to the legislature, the media and economic experts from the other side. We must avoid the typical "Tell me what you want and I'll produce a study to prove it" mentality we have seen employed by some groups. Some witnesses could be presented as consultants for one of the affected retail or other organizations, if the analysis is well prepared and the allied group feels comfortable with the findings and methodology. However, in the current tax-revolt climate this may not be necessary. Affiliation of any expert witness with support from a local (liberal) economist would also be beneficial. Finally, the presence of Citizens for Tax Justice (David Wilhelm) in the state at the request of the Massachusetts AFL-CIO would be advisable.

COALITION ALLIES?	YES	On-going
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The industry lacks credibility in Massachusetts as in other liberal-leaning New England states. This is not to suggest that our representatives lack credibility. Our carefully built coalitions are, therefore, critical and must be tended. The groups which are helpful are: MA Food Association, MA Automatic Merchandising Council, N.E. Convenience Store Association, N.E. Association of Tobacco & Candy Distributors, MA State Federation AFL-CIO, Citizens for Limited Taxation, and N.E. Coin Machine Industry Council. The specific involvement of these groups varies at any given time but can include direct lobbying, public testimony, phone banking, and mailing campaigns. The access to these groups needs to be controlled and critically timed. We need to avoid overuse and multiple messages.

TI GRASSROOTS MOBILIZATION? YES Educational: 4th Qtr. 1990
Action: 1st Qtr. 1991

Grassroots involvement in Massachusetts must follow a two-step program: first of education and second of action. Action will be requested dependent upon legislative movement. Anticipated action requests will probably occur in the second quarter of 1991. Point-of-sale materials distributed by retailers will undoubtedly be a part of action requests. Material mechanicals should be approved by 12/15/90.

COMPANY RESOURCES? YES On-going

The continued coordination of strategic action by company field staff will be an important part of the 1991 session. Increased coverage of state house activity is the pay-off. In addition, sales personnel may be called upon for distribution of material.

PUBLIC AFFAIRS/MEDIA RESOURCES? YES 1/1/91

Print advertising is a potential part of the program. Unless a local media consultant can be retained for on-going media relations activity, we will rely on Ogilvy & Mather. A local media consultant could also provide "op-ed" pieces and editorial board presentations on a continuing basis. Any advertising program will seek multiple sponsors from among our allies. Support of the LMC representative in the state is critical to our labor program.

ADDITIONAL NEEDS? YES 1/1/91

A public relations or media consultant in Massachusetts would be very useful. Massachusetts is one of several states in the region which has a steady stream of local issues. The development of personal credibility among the network of reporters would be of tremendous value.

**PRO-ACTIVE PROPOSAL
HIRING DISCRIMINATION**

MASSACHUSETTS

LEGISLATIVE ACTION: September 27, 1990

STATE/LOCALITY: Massachusetts

ISSUE: Hiring discrimination against smokers in private workplaces.

SUMMARY: Prohibits private employers from using off-the-job personal activities as considerations for hiring, firing, or promotion decisions. (Section of workplace legislation.)

SPONSOR: Massachusetts AFL-CIO; legislative sponsor to be selected.

INTRO DATE: Prefile

COMMITTEE: To be assigned, possibly Commerce & Labor

INDUSTRY ACTION

As adjunct to labor resolutions recommending legislation, this effort will attempt to enact civil rights legislation to protect workers from discrimination on the basis of off-the-job personal practices. This legislation would be postured as a labor and not a tobacco issue. Through the efforts of the Firefighters union and the Rhode Island ACLU we would attempt to develop ACLU support.

The industry would play a supportive role in the development and passage of this legislation. This legislation may be drafted as a section of a more comprehensive piece of workplace smoking legislation.

RESOURCES NEEDED	YES/NO	DATE NEEDED
ECONOMIC ANALYSIS/FACTSHEET?	YES	11/1/90

While it may be difficult to develop, it would be helpful to have an economic analysis of the impact of limiting job access in a declining economy. If an entire class of employee is eliminated by a business, what is the impact on the employers' ability to fill openings? Also, there is a need to develop "labor credible" responses to the argument that smokers cost employers money.

LEGAL MEMORANDUM?

YES

10/17/90

Legal memoranda supporting broad anti-discrimination statute to specifically include smokers. These should be developed from a labor perspective, and also be sensitive to the interests of the ACLU and minority interests. These will be used to help develop support among these groups for this effort.

EXPERT WITNESSES?

YES

4th Qtr 1990
1st & 2nd Qtrs 1991

The development of either local or nationally recognized experts in the area of civil liberties to support the labor effort or assist in the development of the local ACLU as an ally in this effort. This individual could be called upon to meet with unions, the ACLU, minority groups or members of the legislature. In addition, one or two "Op-ed" articles may be required. If there is a plausible economic argument to be made, then a local "liberal" economist for presentations to allied groups and members of the legislature would be helpful.

COALITION ALLIES?

YES

4th Qtr 1990
1st & 2nd Qtrs 1991

The development of the State Federation AFL-CIO and other labor allies. With the help of contacts at Covington & Burling, develop the support of the ACLU and their activists. Business support through the Associated Industries of Massachusetts may be possible, but will not be counted on for the purpose of this plan.

TI GRASSROOTS MOBILIZATION?

YES

1st & 2nd Qtrs 1991

Smokers will be mobilized by non-tobacco organizations using the computer-based program of the cigarette manufacturers. Additional grassroots activities will be developed through our identified allies. These groups will be responsible for motivating their members in a timely fashion.

COMPANY RESOURCES?

YES

4th Qtr 1990
1st & 2nd Qtrs 1991

Access to member company lobbyists to meet periodically with the TI lobbyist to coordinate the industry's support for the efforts of organized labor and other groups. This lobbying support will be developed in a way that does not identify the industry as the primary sponsor of this legislation.

PUBLIC AFFAIRS/MEDIA RESOURCES? YES4th Qtr 1990
1st & 2nd Qtrs 1991

It may be necessary to provide local labor leaders with an opportunity to consult with either local public/media relations counsel or TI's "in-house" experts regarding the need and substance for a local print, radio or TV campaign. If this legislation develops to the point where industry involvement would appear natural, and our absence suspicious, then it may be reasonable to utilize the talents of our spokespersons in the state on this issue.

ADDITIONAL NEEDS?

To Be Determined

**PRO-ACTIVE PROPOSAL
INDOOR AIR QUALITY**

MASSACHUSETTS

LEGISLATIVE ACTION: September 27, 1990

STATE/LOCALITY: Massachusetts

ISSUE: IAQ (Workplace - ASHRAE Standards)

SUMMARY: Establish state-wide IAQ standards for workplaces. Potential for preempting anticipated local action on this issue.

SPONSOR: Massachusetts State Federation AFL-CIO, supported directly by the Massachusetts State Employees Union, International Brotherhood of Sheetmetal Workers and others (potential sponsors include Rep. Fran Alexander).

INTRO DATE: As required by adverse legislation.

COMMITTEE: Joint Committee on Commerce and Labor

LEGISLATIVE STATUS: 1990 legislation will be amended and approved by the Committee prior to adjournment, with possible House approval during this session. 1991 bill will have to start over in Joint Committee.

INDUSTRY ACTION

The purpose of the legislation is to reduce or eliminate the potential for adoption of a state-wide workplace smoking restriction law. Other potential benefits might include preempting localities from enacting more restrictive ordinances in the future. As with most types of positive legislation introduced in the Northeast, identification of the tobacco industry as the primary sponsor would be of no value to the effort. The plan is to reintroduce the 1990 legislation that is the result of an AFL-CIO resolution. As in previous IAQ legislative activities our role would be supportive, but not overt. The preliminary requirement of the effort is the adoption of appropriate resolutions reiterating support for the legislation by the AFL-CIO during the up-coming legislative convention. This is being prepared through the offices of local labor counsel.

RESOURCES NEEDED	YES/NO	DATE
ECONOMIC ANALYSIS/FACTSHEET?	YES	10/17/90

The industry and its allies need to be able to respond to the various cost-related opposition arguments. A comprehensive analysis of the economic impact of the effects

of the proper maintenance of indoor air quality standards must be developed. This analysis should include the cost of proper maintenance and the effects on both worker productivity and health care costs. To provide for maximum opportunity for utilization of this analysis, it should be developed in two forms: (1) for presentation by labor interests; and, (2) for presentation to business interests by the industry and for subsequent presentation by those identified business interests to legislators.

LEGAL MEMORANDUM? YES 10/1/90

Two separate legal analyses are needed to address the different concerns of business and labor. To mitigate anticipated business sector opposition to the proposal, the business memorandum should address (and allay) the potential fear that any positive action taken by business is a suggestion of past errors, thus exposing them to possible employee legal action. The labor memorandum should provide a clear legal analysis of the impact of the proposal on the employee/employer relationship. These analyses should be prepared for ultimate use by business and labor and not by the industry.

EXPERT WITNESSES? YES 4th Qtr 1990
1st Qtr 1991

NEMI, HBI, and other scientific witnesses for individual and committee presentations will be needed. Ideally, these witnesses will be sponsored by other organizations when they make their presentations. NEMI will present the labor perspective. Other witnesses could be brought in by business interests, including local chambers of commerce. However, if necessary, these other witnesses could be sponsored by the industry and conduct "background briefings" with friendly or moderate legislators.

COALITION ALLIES? YES 4th Qtr 1990
1st & 2nd Qtrs 1991

If successfully developed, the entire effort will be sponsored by the AFL- CIO. The support of other unions including the SEIU, Sheetmetal Workers and BC&T will be developed. The support of the business community would be ideal, but difficult to develop. At the very least, there is a need to neutralize the largest organizations representing the business community. Help from the resident tobacco industry could be helpful but of limited impact because of its size and political experience.

TI GRASSROOTS MOBILIZATION? YES 1st & 2nd Qtrs 1991
4th Qtr 1991

It is likely that we will use our resources to mobilize the members of other organizations, including union members and individual local chambers of commerce. Support from the member companies' computer-based grassroots program may be of help, but only if the requests for support come from non-tobacco sources.

COMPANY RESOURCES? YES 4th Qtr 1990
1st & 2nd Qtrs 1991

Access to member company lobbyists to meet periodically with the TI lobbyist to coordinate the industry's support for the efforts of labor and other allied groups. The industry's lobbying support will be conducted in a very targeted format that reduces the potential for industry exposure on this issue.

PUBLIC AFFAIRS/MEDIA RESOURCES? YES

4th Qtr 1990
1st & 2nd Qtrs 1991

It may be necessary to provide local union officials with local public and media relations assistance in order to encourage their development of a plan regarding media support for their legislative effort. This may include the retention of local public relations counsel, but will initially be limited to the expertise of "in-house" resources.

ADDITIONAL NEEDS?

YES

4th Qtr 1990
1st & 2nd Qtrs 1991

Labor/management committee presentations on IAQ to selected unions, legislators and media representatives.

**PRO-ACTIVE PROPOSAL
MINORS**

MASSACHUSETTS

LEGISLATIVE ACTION: October 11, 1990

STATE/LOCALITY: Massachusetts: Eleven selected communities.

ISSUE: Sales to minors.

SUMMARY: Introduction of reasonable regulations of sales and sampling; would preempt more drastic measures.

SPONSOR: Local chambers of commerce.

INDUSTRY ACTION

Local ordinance introductions are increasing, supposedly to protect minors but clearly aimed at harassing the industry. Most propose bans or otherwise severely restricting sales. This project selects eleven cities and towns where we have good relations with the chamber of commerce. Educational approaches to the chambers are to be made, resulting in chamber supported introductions of an omnibus minors ordinance, tailored to local drafting requirements.

This effort should produce several helpful effects: passing reasonable regulations, diverting anti-smokers efforts elsewhere. Providing an indication of support for similar statewide legislation to be reintroduced in 1991 and providing chambers with positive political activity.

RESOURCES NEEDED	YES/NO	DATE NEEDED
ECONOMIC ANALYSIS/FACTSHEET	YES	12/1/90

It may be necessary to develop a factsheet for each selected city. An understanding of sales figures, numbers of vending machines and retail locations will be relevant. The first city is Quincy, MA.

LEGAL MEMORANDUM	YES	On-going
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The legal memoranda developed for Brookline and other localities proposing bans will be useful in presenting arguments precluding similar action in the selected cities.

EXPERT WITNESSES? YES As needed

It is unlikely but possible that an expert witness regarding sampling may be requested for a presentation to a chamber of commerce government committee. However, the preferred and expected approach will be more personal initially, followed by activity by the chamber representatives themselves, rather than outside witnesses.

COALITION ALLIES? YES Now

The chambers of commerce will be the critical and primary players in this effort.

TI GRASSROOTS MOBILIZATION? NO

Direct tobacco contact with this effort would have a negative impact on its outcome. The impetus should be seen as chamber driven.

COMPANY RESOURCES? YES As needed

It may benefit us to have access to the companies' smoker mailing lists to develop calls to local officials once the proposal is before a particular city council. However, direct contact should not occur from cigarette manufacturers.

PUBLIC AFFAIRS/MEDIA RESOURCES? NO

Chambers of commerce have their own public relations people and might welcome assistance in this effort. However, this will be determined on a case by case basis. It may be helpful to have the Institute's public affairs organization assist the local business people to develop and coordinate a media campaign.

ADDITIONAL NEEDS? To be determined.

**PRO-ACTIVE PROPOSAL
RESTAURANT RESTRICTION ROLLBACK**

MASSACHUSETTS

LEGISLATIVE ACTION: October 10, 1990

STATE/LOCALITY: Massachusetts: Somerville, Malden & Braintree

ISSUE: Restaurant Restrictions

SUMMARY: Reduce stringent local ordinances to level of state statute's requirements.

SPONSOR: MA Restaurant Association with local sponsor.

INDUSTRY ACTION

Three cities have been targeted for this project. They all have local restaurant restrictions which are stricter than the state-wide statute. The state statute mandates only that smoking/non-smoking areas be established in restaurants seating 75 or more patrons. The targeted cities affect smaller restaurants.

Members of the restaurant community have been approached to urge passage of new local ordinances in conformity with the state statute. Actual passage of such liberalizing ordinances is unlikely. However, anti-tobacco forces will have to expend time and energy to defend against the new ordinance.

Additional cities may be included in the project pending the outcome of an analysis of the effort in these original three cities.

RESOURCES NEEDED	YES/NO	DATE NEEDED
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ECONOMIC ANALYSIS/FACTSHEET?	YES	12/1/90
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In each of the identified cities it will be necessary to develop a factsheet to respond to local variations. Some of the information in each of these documents will be the same. However, an understanding of the local environment is essential. This factsheet should identify the impact of stricter regulations on the restaurants in question and the employees of the establishment.

LEGAL MEMORANDUM?	NO
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It is unlikely that a legal presentation will have any impact on the local councillors. In reality most of these laws have been in place for a number of years and there has been little impact and no legal ramifications.

EXPERT WITNESSES? YES 12/31/90

IAQ presentations to local officials as deemed appropriate. Most likely presenters are Dr. Larry Holcomb on the properties of ETS and ACVA representatives on the true composition of indoor air pollution. These people have been successful when used in this fashion in the past.

COALITION ALLIES? YES 4th Qtr 1990

The Massachusetts Restuarant Association and local restuarant owners/managers, possibly supported by the local chamber of commerce, will lead this effort. The function of the Institute will be limited to resources and organizational activites.

TI GRASSROOTS MOBILIZATION? YES 1st & 2nd Qtr 1991

It will be necessary to motivate a variety of consumer and business groups during the course of this effort. However, the industry's resources will only be used to mobilize members of the restaurant community and assist local restaurateurs to motivate their customers. Direct tobacco contact with this effort would have a negative impact on its ultimate outcome.

COMPANY RESOURCES? YES 1st & 2nd Qtr 1991

It may be beneficial to have access to the companies' smoker mailing lists to develop letters and calls to local officials. However, direct contact with these individuals should be through local restaurateurs or chambers of commerce and not the cigarette manufacturers.

PUBLIC AFFAIRS/MEDIA RESOURCES? YES 2nd Qtr 1991

It may be helpful to have the Institute's public affairs organization assist the local business people to develop and coordinate a media campaign.

ADDITIONAL NEEDS? To be determined.